

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

IN RE: B.W.

C.A. No. 31912

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. DN 23 07 0640

DECISION AND JOURNAL ENTRY

Dated: August 19, 2026

HENSAL, Presiding Judge.

{¶1} Appellant Mother appeals the judgment of the Summit County Court of Common Pleas, Juvenile Division, that terminated her parental rights and placed her child in the permanent custody of Summit County Children Services Board (“CSB” or “the agency”). This Court affirms.

I.

{¶2} Mother is the biological mother of eight children, including B.W., born March 9, 2023, the subject child of this appeal. Mother was married when B.W. was born but genetic testing excluded her husband at the time as the child’s father. Father is the biological father of B.W. and the after-born child O. He has not appealed.

{¶3} Mother’s three oldest children, who are now young adults, were removed from her custody many years ago and placed in the legal custody of paternal relatives. Her next child H. was removed and placed in the legal custody of a grandmother. Her daughters A. and C. are currently in the temporary custody of Medina County Job and Family Services (“MCJFS”) and

placed in a foster home after the relatives with whom they had been placed were arrested. CSB removed the infant O. from Mother's home shortly after his birth.

{¶4} When B.W. was six weeks old, emergency medical personnel administered Narcan to the infant who was lethargic. B.W.'s condition immediately improved. The next day, the child's urine tested positive for fentanyl. CSB obtained an emergency order of temporary custody and filed a complaint alleging that B.W. was an abused, neglected, and dependent child. The complaint alleged that Father has a long history of drug use, tested positive for fentanyl on the day the infant was hospitalized with lethargy, had been convicted of manslaughter after providing illegal drugs to a person who thereafter died, and was not compliant with his current drug treatment plan. As to Mother, the complaint alleged that she had previously lost legal custody of six other children and had a history of making poor choices regarding romantic partners who put her children at risk. In addition, the agency had concerns about Mother's ability to safely parent the child, given the results of a 2019 parenting evaluation done during a prior child welfare case initiated by CSB.

{¶5} Due to statutory time constraints, CSB dismissed and refiled its complaint. In addition to the above allegations, the agency claimed that Mother and Father were recently indicted on felony child endangering charges arising from B.W.'s exposure to fentanyl in their home. Mother later pleaded guilty to a lesser offense and was sentenced to a term of probation. The agency further alleged ongoing concerns about Mother's limited ability to safely parent the child.

{¶6} Mother waived her right to a shelter care hearing and stipulated to probable cause for the child's removal. At adjudication, both parents waived their rights to a hearing and stipulated to the child's abuse, neglect, and dependency as alleged in the complaint. Mother and Father again waived their hearing rights at disposition and agreed to B.W.'s placement in the temporary custody of CSB and adoption of the agency's case plan as an order. The case plan

required Mother to obtain a psychological/parenting assessment or mental health assessment and follow all recommendations arising therefrom, participate in mental health counseling, follow court orders and rules of probation in her criminal case, and demonstrate the ability to meet the child's basic needs.

{¶7} At the first review hearing, the magistrate found that Mother was employed but did not have appropriate housing. Mother was involved romantically with another man while Father was in prison for child endangering. Her then-paramour had a history of substance abuse. To reunify, the magistrate found that Mother needed to more consistently engage in counseling, obtain appropriate housing, and address the concerns regarding her current paramour's drug use.

{¶8} At the second review hearing, the magistrate found that Mother had recently completed her term of probation, was looking for housing, and was awaiting the finalization of her divorce. Her visits remained supervised.

{¶9} Prior to the first sunset date, CSB moved for a first six-month extension of temporary custody based on Mother's significant progress on the case plan. All parties agreed, and the juvenile court granted a first six-month extension. The next review hearing brought positive news about appropriate visits and a strong Mother-child bond. The magistrate found that Mother and Father were looking to repair and rent a home together.

{¶10} Shortly before the second sunset date, CSB moved for a second six-month extension of temporary custody based on Mother's substantial additional progress on her case plan objectives. Again, the parties waived their rights to a hearing and agreed to the second six-month extension. At the next review hearing, the magistrate found that Mother was still looking for appropriate housing and had temporarily moved in with Father. In addition, there was evidence of an open case in the Medina County Juvenile Court regarding Mother's daughters, A. and C.

{¶11} Six days before the two-year sunset date of the case, CSB moved for permanent custody. The juvenile court scheduled a hearing on the motion for five months later. One week before the scheduled hearing, CSB withdrew its motion for permanent custody and moved for legal custody to Mother under the protective supervision of the agency. On the date scheduled for hearing, however, CSB notified the trial court that it had received new information and intended to withdraw its motion for legal custody and file a new motion for permanent custody. The agency requested a continuance to perfect service of the new motion. The juvenile court rescheduled the hearing for two days at the end of March 2026, 32 months after CSB filed its complaint. In the meantime, Mother gave birth to O. CSB removed that child from her custody after Mother had failed to disclose her pregnancy and out of concern for an unsafe home environment. Father was determined to be O.'s biological father.

{¶12} As the permanent custody hearing began, Mother's counsel orally moved for legal custody or, alternatively, another six-month extension of temporary custody, albeit acknowledging that the court had already granted two such extensions. After the hearing, the juvenile court denied Mother's oral motions, granted CSB's motion for permanent custody, and terminated the parents' parental rights. Mother timely appealed and raises three assignments of error for review. This Court consolidates the first two assignments of error to facilitate review.

II.

ASSIGNMENT OF ERROR I

THE JUVENILE COURT ERRED AND ABUSED ITS DISCRETION IN GRANTING PERMANENT CUSTODY OF B.W. TO [CSB] BECAUSE THE PERMANENT[]CUSTODY JUDGMENT WAS NOT SUPPORTED BY CLEAR AND CONVINCING EVIDENCE AND WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

ASSIGNMENT OF ERROR II

THE JUVENILE COURT ERRED AND ABUSED ITS DISCRETION WHEN IT FOUND, BY CLEAR AND CONVINCING EVIDENCE, THAT PERMANENT CUSTODY WAS IN B.W.'S BEST INTEREST WHERE THE AGENCY'S OWN EVIDENCE SHOWED MOTHER'S SUBSTANTIAL CASE[] PLAN COMPLIANCE, APPROPRIATE HOUSING, APPROPRIATE VISITATION, AND A BOND BETWEEN MOTHER AND CHILD, AND WHERE THE DECISIVE CONCERN WAS SPECULATIVE AND CAPABLE OF BEING ADDRESSED THROUGH CONTINUED SUPERVISION.

{¶13} Mother argues that the evidence does not support the juvenile court's award of permanent custody of B.W. to CSB. This Court disagrees.

{¶14} When considering whether the juvenile court's judgment is against the manifest weight of the evidence, this Court "weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new [hearing] ordered." (Internal quotations and citations omitted.) *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20. When weighing the evidence, this Court "must always be mindful of the presumption in favor of the finder of fact." *Id.* at ¶ 21.

{¶15} Before a juvenile court may terminate parental rights and award permanent custody of a child to a proper moving agency, it must find clear and convincing evidence of both prongs of the permanent custody test: (1) that the child is abandoned; orphaned; has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period; the child or another child of the same parent has been adjudicated abused, neglected, or dependent three times; or that the child cannot be placed with either parent, based on an analysis under Revised Code Section 2151.414(E); and (2) that the grant of permanent custody to the agency is in the best interest of the child, based on an analysis under Section 2151.414(D)(1). R.C. 2151.414(B)(1) and 2151.414(B)(2); *see also In re William S.*, 75 Ohio St.3d 95, 98-99 (1996). The best interest factors

include: the interaction and interrelationships of the child, the wishes of the child, the custodial history of the child, the child's need for permanence and whether that can be achieved without a grant of permanent custody, and whether any of the factors outlined in Section 2151.414(E)(7)-(11) apply. R.C. 2151.414(D)(1)(a)-(e); *see In re R.G.*, 2009-Ohio-6284, ¶ 11 (9th Dist.). Clear and convincing evidence is that which will "produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." (Internal quotations omitted.) *In re Adoption of Holcomb*, 18 Ohio St.3d 361, 368 (1985), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶16} As to the first prong, CSB alleged that B.W had been in the agency's temporary custody for 12 or more months of a consecutive 22-month period pursuant to Section 2151.414(B)(1)(d). Mother does not contest this finding. Our review of the record indicates that clear and convincing evidence supports the trial court's first prong finding.

{¶17} Mother argues that CSB did not prove by clear and convincing evidence that permanent custody was in the child's best interest. She emphasizes her case plan compliance; the agency's recent motion for legal custody to Mother under protective supervision, joined by the guardian ad litem; and mere speculation that Mother planned to continue her romantic relationship with Father. While Mother made great progress on many concerns addressed by her case plan objectives, the evidence demonstrated that, after more than two and a half years, there was an ongoing significant risk to the child's health and safety should he be returned to Mother's care. In light of that serious risk, underscored by Mother's partnership history and undeveloped insight, the juvenile court did not err by finding that B.W.'s need for a legally secure permanent placement could not be achieved without a grant of permanent custody to CSB. *See* R.C. 2151.414(D)(1)(d).

{¶18} It is undisputed that B.W. displays a bond with Mother. Visits were consistent and mostly appropriate throughout the case. However, in April 2025, almost two years into the case, Mother let Father join her and B.W. during their unsupervised visit, despite the caseworker's routine emphasis that Mother may not allow that. Moreover, Mother was aware that Father was prohibited by his rules of parole from having unsupervised contact with the child. After the unauthorized visit, the caseworker reported the violation to Father's parole officer. Thereafter, Father ceased contact with the caseworker and any participation in services related to his case plan objectives.

{¶19} Both the caseworker and guardian ad litem admitted that they had recently supported an award of legal custody to Mother under CSB's protective supervision. Their support was based in substantial part on Mother's compliance with her case plan objectives, including participation in mental health counseling, successful completion of probation, and consistent employment and a recent securing of appropriate independent housing. The caseworker and guardian ad litem each rescinded their support for returning B.W. to Mother's care based on the contents of a recently acquired report of a parenting evaluation performed by Dr. Aimee Thomas, a licensed psychologist and executive director of Lighthouse Family Center.

{¶20} Dr. Thomas conducted a parenting evaluation of Mother for MCJFS in a case involving her daughters A. and C. Mother expressly told Dr. Thomas that she did not want CSB to see the report. The agency subpoenaed and obtained a copy of the report immediately after it had moved for legal custody to Mother. Although Mother objected to the admissions of Dr. Thomas' testimony and report at the hearing, Mother does not challenge those on appeal.

{¶21} Mother's assertions to Dr. Thomas about her intentions regarding Father caused CSB and the guardian ad litem serious concerns about Mother's ability to keep B.W. safe. After

speaking with providers involved in the MCJFS cases and reading Dr. Thomas' report, both the caseworker and guardian ad litem testified that it seemed as though Mother were two different people in the Summit County and Medina County cases.

{¶22} Dr. Thomas explained to Mother that the purpose of the evaluation was to identify parenting strengths and liabilities and make recommendations in furtherance of the goal of reunification when at all possible. Mother's evaluation took place over four days in June, July, August, and September 2025. Dr. Thomas testified that a typical evaluation requires two or three meetings at most, and that four meetings were exceptional but necessary in this case because of Mother's extensive history with child welfare agencies and the loss of custody of multiple children.

{¶23} Dr. Thomas testified in great detail regarding Mother's mental health diagnoses and their impact on parenting, her relationship history, her ongoing parenting deficiencies despite previous participation in services and parenting education in prior child welfare cases, and her intentions regarding her relationship with Father. That testimony indicated that Mother was not currently in a position to provide a safe home environment for B.W. and would not be able to do so within a reasonable time.

{¶24} Mother was diagnosed with, among other things, dependent personality disorder, which manifested in Mother's case as emotional, financial, physical, and social dependence on romantic partners despite dysfunction in those relationships. The disorder further resulted in Mother's tolerance of and attraction to unhealthy relationships. Several fathers of Mother's multiple children had severe substance abuse issues. At least one father was physically violent towards Mother. Those issues precipitated and/or exacerbated the conditions underlying the removals of all eight of her children. Mother not only remained in those dysfunctional romantic

relationships despite her loss of custody of her children, but she continued to have more children with those men.

{¶25} Mother told Dr. Thomas that she intended to maintain a romantic relationship with Father and co-parent their children together. She identified Father and her young children as her only support system, which Dr. Thomas opined was not appropriate. Mother knew that Father was still using dangerous drugs and not participating in any treatment programs. Although B.W. might have died after his exposure to fentanyl because of Father's drug use in their home, Mother maintained an "unyielding commitment" to Father. Dr. Thomas testified that Mother's intent to remain in a romantic relationship with Father under the circumstances, and despite her participation in counseling and various parenting education programs, evidenced a lack of insight that limited Mother's ability to provide a safe environment for a child.

{¶26} At the permanent custody hearing, Mother testified that she ended her relationship with Father immediately after the infant O. was born in January 2026. She asserted that she realized then that their relationship was problematic, and she understood she needed to prioritize the health and safety of her children. The MCJFS caseworker testified, however, that Mother referred to Father as her "fiancé," reported she would remain engaged to him, and planned to co-parent children with him once he was off parole and permitted to have contact with children. Because she was concerned about Father's drug use, the MCJFS caseworker asked Mother multiple times if she planned to stay in a relationship with him. Each time, Mother told her that once the no contact order preventing Father's contact with children was terminated, she planned to both co-parent and live with him. The MCJFS caseworker last communicated with Mother shortly before the hearing and testified that Mother had not indicated that she had changed her intentions regarding Father.

{¶27} Based on her parenting evaluation, Dr. Thomas recommended that Mother engage in weekly counseling to address her repeated involvement in dysfunctional romantic relationships, including her current plans to remain with Father, and to work on gaining independence. The guardian ad litem expressed serious concerns about Mother's historic dependence on others, reporting that Mother had never parented any of her children independently and had not demonstrated the skills needed to do so. Along those lines, Dr. Thomas reported that Mother was frequently displaced from her housing when her romantic relationships ended in the past.

{¶28} Dr. Thomas expressed concern that, although Mother had participated in counseling, she left providers who challenged her beliefs and attempted to hold her accountable. Instead, Mother wanted a therapist who would validate her choices. Dr. Thomas testified that successful treatment, however, required Mother to accept responsibility and embrace the therapist's feedback in order to gain the necessary insight regarding her romantic relationships.

{¶29} Dr. Thomas emphasized another recommendation that Mother participate in an intensive parenting program that focused on, among other things, lifestyle choices and mental health. Despite Mother's ongoing child welfare cases in two counties, prior case plans, and completion of at least two parenting education programs, Dr. Thomas testified that Mother still evidences gaps in her parenting abilities and knowledge that require intensive level services. Although Dr. Thomas conducted her evaluation within the context of the cases involving A. and C., she emphasized that her conclusions and recommendations apply to Mother generally as a parent and would, therefore, be relevant to B.W.'s case.

{¶30} The CSB caseworker and guardian ad litem both admitted that they had earlier believed that Mother's case plan progress warranted returning B.W. to her legal custody under protective supervision and that it was the revelations in Dr. Thomas' report that changed their

minds. The caseworker testified that Mother consistently had healthy responses about protecting the child in light of Father's issues. The guardian ad litem too believed that Mother had benefited from services to the extent of understanding the risk Father posed to the child. Both testified that it became clear after disclosure of Dr. Thomas' report that Mother had merely discerned what the juvenile court and they would need to hear to reunify the child with her, while hiding her true intent for Father to play a major role in her life and B.W.'s care.

{¶31} The juvenile court did not find Mother's assertions that she had severed ties with Father credible. The trial court's credibility determinations are entitled to great deference on appeal. *M.P. v. T.P.*, 2024-Ohio-542, ¶ 13 (9th Dist.). In this case, there was clear evidence of inconsistencies and deceit by Mother. Despite Mother's contradictory testimony, Dr. Thomas and the MCJFS caseworker both testified that Mother was clear with them regarding her intent to maintain a romantic relationship with Father after each repeatedly questioned that intent. Mother did not want CSB to receive notice or a copy of Dr. Thomas' parenting evaluation report. In addition, Mother hid her pregnancy with O. from CSB, denying she was pregnant until a week before O. was born. In light of the evidence, this Court will not second guess the trial court's credibility finding.

{¶32} Clear and convincing evidence supports the juvenile court's finding that the child's legally secure permanent placement could not be achieved without a grant of permanent custody under Section 2151.414(D)(1)(d). Moreover, other best interest factors militate in favor of an award of permanent custody. After a thorough investigation and great deliberation, the guardian ad litem recommended permanent custody in the child's best interest. R.C. 2151.414(D)(1)(b). Except for the first six weeks of his life, B.W. has spent his entire three years of life in the agency's custody. R.C. 2151.414(D)(1)(c). While there is a bond between the child and Mother, B.W. also

has a strong bond with his foster family, in whose home he is comfortable and secure. R.C. 2151.414(D)(1)(a). Mother was convicted of assault and B.W. was the victim of that offense. R.C. 2151.414(D)(1)(e)/(E)(7)(b).

{¶33} Based on a thorough review of the record, this is not the exceptional case in which the trier of fact clearly lost its way and committed a manifest miscarriage of justice by terminating parental rights and awarding permanent custody of B.W. to CSB. Accordingly, Mother's first and second assignments of error are overruled.

ASSIGNMENT OF ERROR III

THE JUVENILE COURT ERRED AND ABUSED ITS DISCRETION BY GRANTING PERMANENT CUSTODY RATHER THAN GRANTING A SIX-MONTH EXTENSION OF TEMPORARY CUSTODY WHERE THE EVIDENCE SHOWED SIGNIFICANT PROGRESS ON MOTHER'S CASE PLAN, REASONABLE CAUSE TO BELIEVE REUNIFICATION COULD OCCUR WITHIN THE EXTENSION PERIOD, AND A LESS DRASTIC DISPOSITION WAS AVAILABLE.

{¶34} Mother argues that the juvenile court erred by granting permanent custody in lieu of an additional six-month extension of temporary custody. This Court disagrees.

{¶35} Mother argues that the evidence supported granting a six-month extension of temporary custody under Section 2151.415(D)(1). That provision allows the juvenile court to grant a first six-month extension if the moving party proves all three parts of the test by clear and convincing evidence. The juvenile court previously granted a first six-month extension of temporary custody around the one-year sunset date, with the agreement of the parties, so subsection (D)(1) is not applicable.

{¶36} Section 2151.415(D)(2) allows the trial court to grant a second six-month extension of temporary custody if the moving party proves additional requirements by clear and convincing evidence. The juvenile court granted a second extension, again with full agreement of the parties,

around the time of the 18-month sunset date. Accordingly, subsection (D)(2) has no further applicability to this case.

{¶37} Section 2151.415(D)(4) expressly prohibits the juvenile court from ordering a third extension. The statute states:

No court shall grant an agency more than two extensions of temporary custody pursuant to division (D) of this section and the court shall not order an existing temporary custody order to continue beyond two years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of this section.

R.C. 2151.414(D)(4).

{¶38} Temporary custody may last longer than two years by operation of law, for example when an appeal has interrupted the proceedings or the juvenile court was compelled to continue the final dispositional hearing beyond the two-year anniversary of the case. *See In re T.S.*, 2025-Ohio-2140, ¶ 33 (9th Dist.); *In re H.S.*, 2022-Ohio-1478, ¶ 11 (9th Dist.). The proscription against extending temporary custody beyond two years lies when the trial court expressly orders such an extension. *In re T.S.* at ¶ 32 (9th Dist.), (quoting our consistent holding that, “based on the plain language of [Section] 2151.415(D)(4), a violation of the statutory time limits requires ‘an express order by the juvenile court extending or continuing temporary custody[.]’”); *In re H.S.*, 2022-Ohio-1478, at ¶ 11 (9th Dist.); *In re H.S.*, 2019-Ohio-4334, ¶ 11 (9th Dist.).

{¶39} In this case, Mother moved for a third extension, seeking an express order from the juvenile court extending the agency’s temporary custody. The plain language of Section 2151.415(D)(4) prohibited the trial court from issuing that order. Such an order granting an additional extension of temporary custody would have violated the express proscription of the statute. Accordingly, the juvenile court did not err by denying Mother’s motion. Mother’s third assignment of error is overruled.

III.

{¶40} Mother's three assignments of error are overruled. The judgment of the Summit County Court of Common Pleas, Juvenile Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JENNIFER HENSAL
FOR THE COURT

SUTTON, J.
STEVENSON, J.
CONCUR.

APPEARANCES:

THOMAS C. LOEPP, Attorney at Law, for Appellant.

ELLIOT KOLKOVICH, Prosecuting Attorney, and HEAVEN R. DIMARTINO, Assistant Prosecuting Attorney, for Appellee.